UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

JEFF RAYNER,

Plaintiff,

Docket No. 18-cv-08302

- against -

JURY TRIAL DEMANDED

ASSOCIATED NEWSPAPERS (U.S.A.) LIMITED,

Defendant.

COMPLAINT

Plaintiff Jeff Rayner ("Rayner" or "Plaintiff"), by and through his undersigned counsel, as and for his Complaint against Defendant Associated Newspapers (U.S.A.) Limited., ("Associated Newspapers" or "Defendant") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant's unauthorized reproduction and public display of a copyrighted photograph of himself holding a telephoto lens, owned and registered by Rayner, a California based professional photographer. Accordingly, Rayner seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

- 2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.
 - 4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

- 5. Rayner is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 4343 Finley Avenue Apartment 31, Los Angeles, CA 90027.
- 6. Upon information and belief, Associated Newspapers is a foreign business corporation duly organized and existing under the laws of the State of New York, with a place of business at 51 Astor Place, New York, NY 10003. Upon information and belief Associated Newspapers is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Associated Newspapers has owned and operated a website at the URL: www. dailymail.co.uk (the "Website"). At all times material, hereto, Associated Newspapers has owned and operated a newspaper called "The Mail"(the "Newspaper").

STATEMENT OF FACTS

- A. Background and Plaintiff's Ownership of the Photograph
- 7. Rayner was photographed holding a telephoto lens (the "Photograph") by a photographer named Magnus Sundholm, at the direction of Reyner. A true and correct copy of the Photograph is attached hereto as Exhibit A.
- 8. Magnus Sundholm licensed all rights in the Photograph, including the copyright thereto, to Rayner on May 30, 2018. See Exhibit B.
- 9. Rayner is the owner of the Photograph and is the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-111-516 and titled "Jeff Rayner with telephoto Lens." See Exhibit C.

B. Defendant's Infringing Activities

- 11. On or about May 12, 2018, Associated Newspapers ran an article on the Website titled *Royal Wedding scammers! Meghan Markle's father STAGED photos with paparazzi that were shared around the world and sold for up to £100,000 just days before he walks her down the aisle.* See URL http://www.dailymail.co.uk/news/article-5721959/Meghan-Markles-father-STAGED-photos-paparazzi-sold-100-000.html. (the "Article") The Article prominently featured the Photograph. A true and correct copy of a screenshot from the Article is attached hereto as Exhibit D.
- 12. On or about May 13, 2018, Associated Newspapers ran an article in its print

 Newspaper titled *The Royal Wedding Scammers*. The article prominently featured the

 Photograph (the "Print Article"). A true and correct copy of the Print Article is attached hereto as

 Exhibit E.
- 13. Associated Newspapers did not license the Photograph from Plaintiff or his predecessor in interest, Magnus Sundholm, nor did Associated Newspapers have Plaintiff's or his predecessor in interest, Magnus Sundholm's permission or consent to publish the Photograph on its Website or in their Newspaper.

CLAIM FOR RELIEF (COPYRIGHT INFRINGEMENT AGAINST DEFENDANT) (17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

- 15. Associated Newspapers infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website and in its Print Article. Associated Newspapers is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.
- 16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.
- 17. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.
- 18. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- 1. That Defendant Associated Newspapers be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
- 2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
- 3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

- 4. That Plaintiff be awarded pre-judgment interest; and
- 5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York September 12, 2018

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